

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

United States of America,

Plaintiff,

v.

Helen M. Foss,

Defendant.

Civil Action No.: 1:20-cv-788 (GTS/DJS)

COMPLAINT FOR PERMANENT INJUNCTION

The United States of America brings this complaint for permanent injunction against defendant Helen M. Foss (“Defendant”) and alleges as follows:

INTRODUCTION

1. Starting as early as 2017 and continuing to the present, Defendant has assisted and facilitated a predatory mail and wire fraud scheme that primarily victimizes senior citizens of the United States. Participants in the scheme contact potential victims, falsely claim that those victims have won the lottery, and thereby induce the victims to transmit money to Defendant to account for taxes and fees purportedly associated with victims’ falsely promised lottery winnings.

2. The United States seeks to prevent continuing and substantial injury to victims of this fraudulent scheme by bringing this action for a permanent injunction and other equitable relief under 18 U.S.C. § 1345 to enjoin the ongoing commission of mail fraud and wire fraud in violation of 18 U.S.C. §§ 1341 and 1343.

JURISDICTION AND VENUE

3. The Court has subject matter jurisdiction over this action under 18 U.S.C. § 1345 and 28 U.S.C. §§ 1331 and 1345.

4. Venue is proper in this district under 28 U.S.C. § 1391(b)(1) and (2).

THE PARTIES

5. Plaintiff is the United States of America.

6. Defendant is a resident of Cambridge, New York, within Washington County. Defendant engaged, and continues to engage, in the conduct described in this Complaint from within the Northern District of New York.

FACTS

7. Since at least as early as 2017, Defendant has assisted and facilitated a fraud scheme by accepting victim payments and providing participants of the scheme with access to those payments.

8. Operators of the fraud scheme engage in a lottery scam. Callers associated with the fraud scheme contact victims, who often are senior citizens, and falsely claim that the victims have won the lottery. Typically, the callers then tell the victim that he or she needs to wire or otherwise transmit money to pay for fees and/or taxes allegedly associated with winning the lottery. These claims are false and fraudulent, as the members of the scheme know the victim has not won the lottery and that there is no need for the victim to wire fees and/or taxes associated with winning the lottery.

9. Since at least 2017, victims have been harmed by the fraudulent scheme facilitated by Defendant. Defendant plays a critical role in the scheme by receiving victim payments by mail and wire transfer, depositing the payments into her bank accounts, and allowing access to those accounts by individuals in Jamaica engaged in the scheme. The

scammers in Jamaica withdrew the money Defendant deposited by using debit cards associated with her bank accounts provided to them by Defendant.

10. On or about October 23, 2018, Defendant voluntarily signed an Unlicensed Money Transmitter Letter in which she acknowledged that if she continued to receive or send funds from sweepstakes victims, she could face civil or criminal penalties. By signing the Letter, which was presented to her by United States Postal Inspectors, she agreed to stop participating in such sweepstakes or lottery activities.

11. Despite signing this letter, Defendant continues to assist and facilitate the fraud scheme by receiving mail parcels and wire transfers of money into her bank accounts. In 2020 she was again receiving checks, money orders, and wire transfers from sweepstakes fraud victims, which were deposited into her bank account. The checks, money orders, and wire transfers were sent from elderly victims in, *inter alia*, Georgia, Texas, and Illinois. One such victim sending wire transfers, an 89 year-old woman from Georgia, also sent money to the Defendant via U.S. mail parcels from July through October, 2018. The money deposited into the Defendant's bank account was withdrawn in Jamaica at various ATMs using a debit card.

DEFENDANT'S KNOWLEDGE OF FRAUD

12. The United States alleges that Defendant has knowledge that her conduct facilitates a mail and wire fraud scheme.

HARM TO VICTIMS

13. Victims suffered financial losses from the mail and wire fraud scheme facilitated by Defendant.

14. The scheme disproportionately affects elderly victims.

15. Absent injunctive relief by this Court, Defendant's conduct will continue to cause injury to victims.

COUNT I
(18 U.S.C. § 1345 – Injunctive Relief)

16. The United States re-alleges and incorporates by reference Paragraphs 1 through 15 of this Complaint as though fully set forth herein.

17. By reason of the conduct described herein, Defendant violated, is violating, and is about to violate 18 U.S.C. §§ 1341 and 1343 by facilitating a scheme and artifice to defraud and obtain money or property by means of false or fraudulent representations with the intent to defraud, and, in so doing, is using the United States mails and interstate or foreign wire communications.

18. Upon a showing that Defendant is committing or about to commit mail or wire fraud, the United States is entitled, under 18 U.S.C. § 1345, to seek a permanent injunction restraining all future fraudulent conduct, and the Court may not only issue such an injunction, but may take such other action as is warranted to prevent a continuing and substantial injury to victims.

19. As a result of the foregoing, the Court should enjoin Defendant's conduct under 18 U.S.C. § 1345.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff, United States of America, requests of the Court the following relief:

A. That the Court issue a permanent injunction, pursuant to 18 U.S.C. § 1345, ordering that Defendant is restrained from engaging, participating, or assisting in any illegal lottery scam or money transmitting business; and

B. That the Court order such other and further relief as the Court shall deem just and proper.

Dated: July 14, 2020

Respectfully Submitted,

GRANT C. JAQUITH
United States Attorney

Adam J. Katz (Bar Roll No. 517894)
Assistant United States Attorney
United States Attorney's Office
Northern District of New York
445 Broadway, Room 218
Albany, New York 12207
Phone: 518-431-0247
Fax: 518-431-0386
Email: adam.katz@usdoj.gov

GUSTAV W. EYLER
Director
Consumer Protection Branch

RICHARD GOLDBERG
Senior Counsel for Complex Litigation
Consumer Protection Branch

By: /s/ Linda I. Marks
LINDA I. MARKS
Senior Litigation Counsel
Consumer Protection Branch
United States Department of Justice
P.O. Box 386
Washington, DC 20044
Phone: 202-307-0060
Fax: 202-514-8742
linda.marks@usdoj.gov

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Linda I. Marks, U.S. Department of Justice, Consumer Protection
Branch, P.O. Box 386, Washington, D.C. 20044; 202-307-0060

DEFENDANTS

HELEN M. FOSS

County of Residence of First Listed Defendant Washington
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question
(U.S. Government Not a Party)
☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
18 U.S.C. § 1345

Brief description of cause:
Anti-Fraud Injunction Statute

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

07/14/2020

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT

Waived

APPLYING IFP _____

JUDGE

GTS

MAG. JUDGE

DJS

1:20-cv-788